IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Tr.P(C).No. 189 of 2007()

OP.197/2006 of FAMILY COURT, KOTTAYAM
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PETITIONER

DILEEP KUMAR, AGED 54 YEARS,
S/O.LATE RAGHAVAN, RESIDING AT DILEEP SADANAM,
KANICHUKULANGARA.

BY ADV. SMT.A.R.USHA

RESPONDENTS:
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1. DIANA, AGED 22 YEARS, D/O.INDIRA,
RESIDING AT KUNNATHUKALATHIL HOUSE,
KUMARAKOM P.O., KUMARAKOM KARA,
KUMARAKOM VILLAGE, KOTTAYAM TALUK.

2. DEEPAK, AGEE 20 YEARS,
S/O.G.R.DILEEPKUMAR, RESIDING AT
KUNNATHUKALATHIL HOUSE, KUMARAKOM P.O.,
KUMARAKOM KARA, KUMARAKOM VILLAGE,
KOTTAYAM TALUK.

THIS TRANSFER PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.Krishnan, J.

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Tr.P(C).No.189 of 2007

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Dated this the 7th day of September, 2007.

JUDGMENT

This transfer petition is preferred to transfer O.P.No.197 of 2006 pending before the Family Court, Ettumanoor to the Family Court at Alappuzha. The cases pending before the Family Courts are one for maintenance filed by the children and the other for return of money filed by the wife.

2. Brief reference to the facts of the case would reveal that the husband has alleged adultery against the wife and also large scale of misappropriation of his funds while he was away from India. Ground alleged is that he is suffering from Rheumatism. The distance between the Family Court, Alappuzha and the Family Court at Ettumanoor is hardly 40 kms. In the 21st Century, it may not be correct to hold that travelling such a distance will cause a lot of inconvenience. It can also be seen from the averments in the petition itself that he is a man, who

has travelled widely including large number of journeys abroad. The allegation is that during his absence from the Country, the wife developed intimacy with the Manager of his Factory and that has resulted in the initiation of the matrimonial dispute.

3. A petition for transfer and a contention regarding the absence of jurisdiction are two independent matters. Writ petitioner will not be precluded from raising the contention of non-jurisdiction. So a jurisdictional aspect need not be resolved by transferring the case. For a transfer, there must be valid grounds. There are only very vague allegations and I feel that circumstances do not exist at all in this case to effect a transfer.

4. Therefore, the transfer petition is dismissed. But I make it clear that the jurisdictional aspect, if the writ petitioner wants to raise, can very well be raised before the Family Court, Ettumanoor.

M.N.Krishnan,
Judge.

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